



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 763 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Krizek)

LD#: 22105989

Date: 02/09/2022

Topic: Charitable gaming

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
Cannot be determined **
- **Juvenile Detention Facilities:**
Cannot be determined **

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends several sections in the *Code of Virginia* relating to charitable gaming.

Under the proposed § 18.2-340.16, electronic gaming means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. Electronic gaming does not include (i) the game of chance identified in clause (ii) of the definition of “bingo” or (ii) network bingo.

Under the proposed § 18.2-340.26:3, the conduct of electronic gaming is restricted to social organizations and limited to such organizations’ social quarters. Any such permitted social organization may lease its premises to any qualified organization for the purpose of conducting electronic gaming. Any person who conducts or participants in electronic gaming that is not permitted under this section shall be subject to the penalties specified under § 18.2-340.37. It is further specified under § 18.2-340.30 that it is required for each qualified organization to keep a complete record of all receipts from its charitable gaming operation, including a breakdown of receipts attributable to each type of game offered. Similarly, under the proposed § 18.2-340.30:2, each electronic gaming manufacturer that holds a permit issued by the Virginia Department of Agriculture and Consumer Service (VDACS) shall keep a complete record of all electronic gaming adjusted gross receipts and shall file at least annually a report of all such receipts and any other information related to the manufacture of electronic games that the Department may require. All reports filed pursuant to §§ 18.2-340.30 and 18.2-340.30:2 shall be subject to audit by the Department in accordance with Charitable Gaming Board regulations.

Currently, under § 18.2-340.37(A), any person in violation of the provisions specified under the article 1.1:1 of charitable gaming (§ 18.2-340.15 et seq.) is a Class 1 misdemeanor. Furthermore, under the same section, any person who willfully and knowingly files a false application or willfully and knowingly makes a false statement on any application, report, or other document required to be filled with or made to the VDACS shall be guilty of a Class 1 misdemeanor.

Under § 18.2-340.37(C), any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than \$1,000, shall be guilty of petit larceny, punishable as a Class 1 misdemeanor. If the amount of funds is \$1,000 or more, an offender shall be guilty of felony grand larceny, punishable by imprisonment of 1 to 20 years.

Analysis:

This proposal adds electronic gaming as charitable gaming and specifies who is eligible to conduct electronic gaming under certain conditions. The proposal would expand the potential pool of the individuals who could be subject to the criminal penalties specified under § 18.2-340.37. However, existing data are not sufficiently detailed to estimate the number of additional convictions under existing charitable gaming related provisions.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2016 and FY2021, no offender was convicted of a felony grand larceny under § 18.2-340.37(C) for illegally converting funds (\$1,000 or more) from charitable gambling.

According to data from the General District Court (CMS) for the same period, there were no convictions for any Class 1 misdemeanor offenses specified under the existing charitable gaming-related statutes from the article 1.1:1 (§ 18.2-340.15 et seq.) during the six-year time period.

Impact of Proposed Legislation:

State adult correctional facilities. Although no offender has been convicted of any crime under § 18.2-340.37 in the six most recent fiscal years, the proposal expands the potential pool of the individuals who could be subject to the criminal penalties (especially felony grand larceny of \$1,000 or more) under the same section by adding the provisions of electronic gaming as charitable gaming. Therefore, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's Sentencing Guidelines. Felony convictions under § 18.2-340.37 (C) are not covered; however, they may augment the sentence recommendation if the most serious offense is covered by the Guidelines. No adjustment to the Guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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